

Mount Desert Street Corridor Ordinance

Town of Bar Harbor

An Amendment to change Mount Desert Street's neighborhood district to Mount Desert Corridor.

The Town of Bar Harbor hereby ordains that Chapter 125 , of the Town Code is amended as follows:

[Please Note: Old language is ~~stricken~~. New language is underlined.]

Chapter 125, LAND USE ORDINANCE

ARTICLE III, Land Use Activities and Standards

§ 125-19. ~~Bar Harbor Historic Corridor.~~ Mount Desert Corridor

A. Purpose:

The Mount Desert Corridor District is part of an important historic entry corridor into the village business district. Existing developments of bed & breakfasts should be encouraged to remain whereas property as re-developed or infill development should be reviewed carefully to retain the historic character of this corridor.

B. Dimensional Standards

- (1) Minimum lot size: ~~20,000 square feet with sewers; 40,000 square feet without sewers~~ 20,000 square feet.
- (2) Minimum road frontage and lot width: 100 [feet].
- (3) Minimum front setback: 20 [feet] ~~75 [feet] from Mount Desert Street; 25 [feet] else-~~
~~where. [Amended 11-7-2006].~~
- (4) Minimum side setback: 25 [feet].
- (5) Minimum rear setback: 25 [feet].
- (6) Setback for accessory structures: 10 [feet]
- (7) Maximum lot coverage: ~~25%-35%.~~
- (8) Maximum height: 40 [feet].
- (9) Minimum area per family: 10,000 square feet

§ 125-19. ~~Bar Harbor Historic Corridor.~~

~~A. Minimum lot size: 20,000 square feet with sewers; 40,000 square feet without sewers.~~

~~B. Minimum road frontage and lot width: 100 feet with sewers; 150 feet without sewers.~~

- ~~C. Minimum front setback: 75 [feet] from Mount Desert Street; 25 [feet] elsewhere. [Amended 11-7-2006]~~
- ~~D. Minimum side setback: 25 [feet].~~
- ~~E. Minimum rear setback: 25 [feet].~~
- ~~F. Maximum lot coverage: 25%.~~
- ~~G. Maximum height: 40 [feet].~~
- ~~H. Minimum area per family: 10,000 square feet with sewers; 20,000 square feet without sewers.~~

C. Allowed Uses

- (1) Principal Uses Allowed with a Building Permit or a change of use permit by the Code Enforcement Officer: art gallery, home occupation, museum, place of worship; public or private park, single or two-family dwelling; vacation rentals.
- ~~(2) Principal Uses allowed by minor site plan approval: wind turbines, offices, all types of schools, bed & breakfast I and II.~~
- ~~(3) Principal Uses allowed by major site plan: convalescent home; multifamily I and II; theaters.~~
- ~~(4) Principal Uses allowed by Conditional Use Permit: Retail; Restaurants; bed and breakfast III and IV.~~

D. Allowed Activities

- (1) Activities allowed without a permit, provided it complies with all provisions of Section 125: activities necessary for managing/protecting land; filling/earth moving activity less than 16 cubic yards; forest management activities except timber harvesting' non-intensive recreation uses not requiring structures; public utility installations/essential services
- (2) Activities allowed by a building permit and require approval of the Code Enforcement Officer: driveway construction; filling/earth moving activity 16 cubic yards or more.

E. Other requirements:

- (1) All new construction or changes to facades and signs shall require Design Review Board approval. Single family homes are exempt from this provision unless otherwise included in Appendix A or B of this Chapter

ARTICLE V, Site Plan Review

§ 125-67. General review standards.

The Planning Board, before granting site plan approval, must find that the proposed plan will comply with each of the following standards. In all instances the burden of proof shall be upon the applicant.

- B. Lot standards. Except as modified by the provisions for planned unit developments set forth in § 125-69M and S, as applicable, any proposed structure or lot must comply with the lot size, area per family, road frontage, lot width, and front, side and rear setback requirements, as determined by reference to Article III for each district in which it is proposed subject to the following: [Amended 5-7-1991; 11-5-1991; 5-1-1995; 5-6-1996; 11-2-1999; 11-4-2003; 5-3-2004; 11-2-2004; 5-2-2005; 6-13-2006^{EN}]

- (2) Front setback distances shall be measured from the center line of the traveled way in all districts except the Bar Harbor Historic, ~~Bar Harbor Historic~~ Mount Desert Street Corridor, Bar Harbor Residential, Downtown Business, Downtown Residential, Hulls Cove Business and Shoreland General Development I Districts where setback distances shall be measured from the edge of the lot line.

§ 125 -69. Standards for particular uses structures or activities.

Notwithstanding and in addition to any other provision of this chapter, before granting site plan approval for any land use activity described in this section, the Planning Board must find that the proposed plan will comply with such of the following standards as are applicable:

U. Purpose of Conditional Use. The purpose of this section is to establish procedures and standards to enable the Planning Board to review applications for Conditional Uses. A Conditional Use is a structure or use that is generally not appropriate in a given district, but with restrictions and if controlled as to location, size and off-site impacts may have no adverse effects upon the public health, safety or welfare, surrounding properties, the natural environment, or on municipal services. The only structures or uses that shall be permitted as conditional uses are those approved as Conditional Uses by the Planning Board.

- (1) Conditional Use Approval Required. A building, structure or parcel of land may be used for a conditional use if the use is specifically listed as a conditional use within a specified land use district. Conditional Use approval is granted by the Planning Board. The process for Conditional Use approval shall include all pertinent sections of Article V and Article XIII.

- (2) Process for Review of Conditional Use.

- (a) A Conditionally Permitted Use shall be subject to the review procedures for major site plan included in Section 125-61 of Article V.

- (b) A Conditionally Use Permitted Use shall be subject to the submission requirements for major site plan included in Section 125-66 of Article V.
 - [1] A Conditionally Permitted Use shall be eligible for a waiver request pursuant to Section 125-63 of Article V.
 - [2] A Conditionally Permitted Use shall be eligible for a modification of standard pursuant to Section 125-64 of Article V.
- (3) Action on the Application for a Conditional Use Permit. The Planning Board may affirm, affirm with conditions, or deny the application for a Conditional Use Permit. In addition to the findings required by Section 125-67, the Planning Board may authorize issuance of a Conditional Use Permit based upon the following findings:
 - (a) The proposed use will not create hazards to vehicular or pedestrian traffic on the streets, roads and sidewalks serving the proposed use as determined by the size and condition of such streets, roads, sidewalks, lighting, drainage, intensity of use by both pedestrians and vehicles, and the visibility afforded to pedestrians and the operators of motor vehicles;
 - (b) The proposed use will not create nuisances to neighboring properties because of odors, fumes, glare, hours of operation, noise, vibration or fire hazard, or unreasonably restricted access of light and air to neighboring properties. Furthermore, the proposed use will allow abutting property owners continued peaceful enjoyment their land;
 - (c) The proposed location for the use has no peculiar physical characteristics due to its size, shape, topography, or soils that will create or aggravate adverse environmental impacts on surrounding properties;
 - (d) The proposed use will not have an adverse impact on significant scenic vistas or on significant wildlife habitat that could be avoided by reasonable modification of the plan.
 - (e) The proposed use will not adversely affect the value of adjacent properties; and
 - (f) The design and external appearance of any proposed building will constitute an attractive and compatible addition to its neighborhood as determined by the Design Review Board pursuant to Section 125-114.
- (4) Conditions of Approval.
 - (a) The Planning Board may attach conditions to its approval of a Conditional Use to ensure the findings noted above will be met.
 - (b) The Planning Board may require that the terms of any conditions of approval be recorded in the Hancock County Registry of Deeds prior to issuance of a building permit.
- (5) Duration of Conditional Use Approval.

- (a) Provided all conditions and standards of approval are met, a Conditional Use shall be a continuing grant of permission for as long as the property is used for such purposes. The Conditional Use shall expire if the owner:
- [1] Physically alters the property and/or structure so it can no longer be used for the Conditional Use, or
 - [2] Ceases to use the property for the approved Conditional Use for one year or more, or
 - [3] Fails to initiate the operation or conduct of the Conditional Use within one year of the date of the Planning Board's vote to grant said approval.
- (b) A Conditional Use may be expanded in area or function only with the granting of a new Conditional Use approval by the Planning Board. Other modifications to an approved plan shall be subject to Section 125- 67.G, Minor Site Plan.

Article XII, Construction and Definitions

§ 125-109. Definitions.

The following terms shall have the following meanings:

Conditional Use - - a land use that, because of its unique characteristics or potential impact on the Town, surrounding neighbors, or adjacent land uses, may not be compatible in some areas or may be compatible only if certain conditions are required that mitigate or eliminate the detrimental impacts. By classifying certain uses as conditionally permitted, separate regulations can be imposed to evaluate and mitigate potential adverse impacts.

Conditional Use Permit - - A permit issued by the Planning Board stating that the conditional use meets all conditions set forth in the Land Use Ordinance. It is a mechanism that allows the ability to permit specific uses not otherwise allowed, as long as the landowner or business owner meets certain conditions.

ARTICLE XIII, Design Review

§ 125-112. Applicability of design review.

- A. Design Review Overlay Districts. [Amended 11-4-2003; 11-2-2004; 6-9-2009; 11-3-2009]
- (1) The provisions of this article shall apply only within the geographic limits of the following Design Review Overlay District, hereinafter called the "district."
 - (2) Boundaries of the Design Review Overlay District. The district shall include the following neighborhood districts as shown on the Official Neighborhood Districts Map of Bar Harbor: the Downtown Village Districts; the Shoreland General Development I District; the Bar Harbor Gateway District; the Village Historic District; the ~~Bar Harbor~~ Mount

Desert Street Historic Corridor District (~~excluding those corridor districts on Route 3 that are within the area of the Town shown on Tax Map 11D~~); and the Town Hill Village and Business Districts. The district is depicted on the map titled "Design Review Overlay District of the Town of Bar Harbor, Maine." The district also includes all Bed and Breakfast, and Conditionally Permitted Uses ~~uses~~ regardless of their district location.

§ 125-114. Design review standards.

- C. Standards for materials and design details for structural projects. The following standards are intended to assure that proposals conform to the quality of design that has historically been associated with buildings within the district. The structural standards have been designed to promote compatibility with Bar Harbor's historic character and its scenic location. Certain types of design are inappropriate within the designated Design Review Overlay Districts since they will not meet these standards and thus do not enhance the existing visual character or preserve Bar Harbor's uniqueness. [Amended 11-3-2009]

(e) Roofing.

- [1] Roofing is intended to protect the horizontal portions of a building from the penetration and infiltration of weather while maintaining the architectural integrity of the structure. The roofing material and color, if visible from a public street, shall be selected to be visually compatible with the style of the building and the other exterior finishes and colors.
- [2] In the Downtown ~~Business Village~~ Districts, and Mount Desert Street Corridor district, brightly colored metal, plastic or fiberglass roofing is visually incompatible with the character of the district and therefore inappropriate.
- [3] Other materials are appropriate if it is demonstrated that they are visually compatible with the overall building and its environs.
- [4] In the Downtown Business Districts, appropriate roof colors include neutral shades such as earth tones, greys, and black. Bright or primary colors are not appropriate.

MAP AMENDMENT

Assign the Mount Desert Street Corridor District to the following Property Tax Map and Lot numbers pursuant the Proposed Zoning Changes map created on June 2, 2010:

Map and Lot	Map and Lot	Map and Lot	Map and Lot	Map and Lot
107-002-000	104-237-000	104-419-000	104-318-000	104-295-000
104-192-000	104-412-000	104-429-000	104-317-000	104-295-000
104-191-000	104-413-000	104-430-000	104-297-000	104-295-000
104-190-000	107-008-000	104-432-000	104-295-000	104-295-000
104-189-000	104-414-000	104-433-000	104-295-000	104-296-000
104-411-000	104-415-000	104-434-000	104-295-000	104-254-000

Map and Lot	Map and Lot	Map and Lot	Map and Lot	Map and Lot
107-007-000	104-416-000	104-338-000	104-295-000	104-255-000
107-002-000	104-237-000	104-419-000	104-318-000	104-295-000
104-238-000				

[end of ordinance]

LEGISLATIVE HISTORY:

Introduced: _____

Town Attorney Approved: _____

Revised in response to Council input: _____

Public Hearing: _____

Council Adopted: _____

Sent for Codification: _____

ⁱ~~Editor's Note: This ordinance also provided that it shall apply retroactively to all proceedings, applications and/or petitions pending on or commenced after 9-6-2005, notwithstanding the provisions of 1 M.R.S.A. § 302.~~